

IN RE: PETITION FOR RESIDENTIAL ZONING VARIANCE
W/S Holly Tree Road, 28 ft. S of c/l of Burke Road
1610 Holly Tree Road
15th Election District
15th Councilmanic District
Richard Cernak, et ux
Petitioners

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 93-245-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as an administrative variance filed by Richard and Rose M. Cernak, for that property known as 1610 Holly Tree Road in the Bowleys Quarters section of Baltimore County. The Petitioners herein seek a variance from Sections 1A04.3.B.3 and 301.1.A of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a side yard setback of 16 ft. (proposed deck) in lieu of the 37.5 ft. required, as more particularly described on Petitioners' Exhibit No. 1, the plat to accompany the Petition.

The Petitioners having filed a Petition for Residential Variance and the subject property having been posted, and there being no request for a public hearing, a decision shall be rendered based upon the documentation presented.

The Petitioners have filed the supporting affidavits as required by Section 26-127 (b)(1) of the Baltimore County Code. Based upon the information available, there is no evidence in the file to indicate that the requested variance would adversely affect the health, safety or general welfare of the public and should therefore be granted. In the opinion of the Zoning Commissioner, the information, photographs, and affidavits submitted provide sufficient facts that comply with the requirements of Section 307.1 of the B.C.Z.R. Furthermore, strict compliance with the

B.C.Z.R. would result in practical difficulty and/or unreasonable hardship upon the Petitioners.

This property is located within the Chesapeake Bay Critical Areas and is subject to compliance with the recommendations to be made by the Department of Environmental Protection and Resource Management (DEPRM), pursuant to Section 500.14 of the Baltimore County Zoning Regulations (B.C.Z.R.), upon completion of their findings. The relief granted herein shall be conditioned upon Petitioners' compliance with said findings.

Pursuant to the posting of the property and the provisions of both the Baltimore County Code and the Baltimore County Zoning Regulations, and for the reasons given above, the requested variance should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 3rd day of March, 1993 that the Petition for a Zoning Variance from Sections 1A04.3.B.3 and 301.1.A of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a side yard setback of 16 ft. (proposed deck) in lieu of the 37.5 ft. required, be and is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted herein:

1. The Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.
2. Compliance with the Department of Environmental Protection and Resource Management recommendations to be submitted upon completion of their review of this matter.

LES:mmn

-2-

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204

(410) 887-4386

March 3, 1993

Mr. and Mrs. Richard Cernak
1610 Holly Tree Road
Baltimore, Maryland 21220

RE: Petition for Administrative Zoning Variance
Case No. 93-245-A
1610 Holly Tree Road

Dear Mr. and Mrs. Cernak:

Enclosed please find the decision rendered in the above captioned case. The Petition for an Administrative Variance has been granted, in accordance with the attached Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days of the date of the Order to the County Board of Appeals. If you require additional information concerning filing an appeal, please feel free to contact our Appeals Clerk at 887-3391.

Very truly yours,

Lawrence E. Schmidt
Zoning Commissioner

LES:mmn
encl.

Petition for Administrative Variance 93-245-A to the Zoning Commissioner of Baltimore County for the property located at 1610 Holly Tree Road

This Petition shall be filed with the Office of Zoning Administration & Development Management. The undersigned, legal owner(s) of the property situated in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s) 1A04.3B.3 and 301.1A (B.C.Z.R.)

1A04.3B.3 to permit side yard set back of 16 feet in lieu of the 37.5 feet required of the Zoning Regulations of Baltimore County to the Zoning Law of Baltimore County, for the following reasons: (Indicate hardship or practical difficulty)

Narrow configuration of the parcel created prior to the adoption of the current zoning regulations.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

NAME OF PROPERTY OWNER(S) AND AFFIRM, under the penalties of perjury, that I am and the legal owner(s) of the property which is the subject of this Petition.

Legal Owner(s):
Rose M. Cernak
Signature: [Signature]
Address: 1610 Holly Tree Rd., Baltimore, Md. 21220
City: Baltimore, Md. 21220
State: Md. Zip Code: 21220
Name, Address and phone number of legal owner, contract purchaser or representative to be contacted:
Richard Cernak
Name: Richard Cernak
Address: 1610 Holly Tree Rd., Baltimore, Md. 21220
City: Baltimore, Md. 21220
State: Md. Zip Code: 21220
Phone No.: 335-3427

A Public Hearing having been requested and/or found to be required, it is ordered, by the Zoning Commissioner of Baltimore County, this 3rd day of March, 1993, that the subject matter of this petition be set for a public hearing, to be held on the 10th day of March, 1993, at 7:00 PM, in the Zoning Commission Hearing Room, 400 Washington Avenue, Towson, Maryland 21204.

REVIEWED BY: JCM DATE: 1-27-93
ESTIMATED POSTING DATE: 2-14-93

ITEM #: 256

Affidavit in support of Administrative Variance

The undersigned hereby affirms under the penalties of perjury to the Zoning Commissioner of Baltimore County, as follows:

That the information herein given is within the personal knowledge of the Affiant(s) and that Affiant(s) were competent to testify thereto in the event that a public hearing is scheduled in the future with regard thereto.

That the Affiant(s) does/do presently reside at 1610 Holly Tree Road, Baltimore, Md. 21220.

That based upon personal knowledge, the following are the facts upon which I/we base the request for an Administrative Variance as at the above address: (Indicate variance or proposed affidavit)
My wife has an arthritic condition that makes it necessary for her to do water aerobics in order to facilitate movement in her joints. She had a full hip replacement in October, 1991, and an operation for breast cancer in October, 1992. We decided to build a pool to make it easier for her to exercise, and to eliminate the 45 minute drive to the Towson YMCA. The landscape architect drew up a plan, the pool contractor submitted it for a permit, and the permit was approved. At that time, DEPRM requested a few additional plants and trees, and we complied with that request. The pool was built, and we applied for a permit to construct the deck as shown on the drawing that was originally submitted to the Zoning Department, and to DEPRM. At that time, we were informed that we had to apply for a variance. We are therefore requesting that we be allowed to build the deck as shown on the original drawing.

That Affiant(s) acknowledge(s) that if a protest is filed, Affiant(s) will be required to pay a reposting and advertising fee and may be required to provide additional information.

Signature of Affiant(s): [Signature]
Rose M. Cernak
Type or print name: Rose M. Cernak

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY, this 27 day of Jan., 1993, before me, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared

Rose M. Cernak & Richard Cernak

the Affiant(s) herein, personally known or satisfactorily identified to me as such Affiant(s), and made oath in due form of law that the matters and facts hereinabove set forth are true and correct to the best of his/her knowledge and belief.

AS WITNESS my hand and Notarial Seal.

1-27-93

My Commission Expires: 11-1-98

PROPERTY DESCRIPTION

Beginning at a point on the west side of Holly Tree Road which is 16 feet wide at the distance of 28 feet south of the centerline of the nearest improved intersecting street, Burke Road, which is 16 feet wide. Being lots #188 and #189, in the subdivision of Bowleys Quarters as recorded in Baltimore County Plat Book #7, Folio #12, containing 24,275 square feet in lot. Also known as 1610 Holly Tree Road.

93-245-A

256

Baltimore County
Zoning Administration & Development Management
211 West Chesapeake Avenue
Towson, Maryland 21204

Account: R-001-6150
Number: 1973000556

Date: 1/27/93

	QTY	PRICE
PUBLIC HEARING FEES	1	140.00
010 - ZONING VARIANCE (FRL)	1	140.00
080 - POSTING SIGNS / ADVERTISING	1	135.00
LAST NAME OF OWNER: CERNAK	TOTAL:	415.00

04A04#0012MCHRC
04 COU2#4BPH01-27-93
Please Make Checks Payable To: Baltimore County

Cashier Validation

CERTIFICATE OF POSTING

ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: [Signature]
Posted for: [Signature]
Petitioner: [Signature]
Location of property: [Signature]
Location of Sign: [Signature]
Remarks: [Signature]
Posted by: [Signature]
Number of Signs: 1

Date of Posting: 2/11/93
Date of return: 2/12/93

Baltimore County Government
Office of Zoning Administration
and Development Management

211 West Chesapeake Avenue
Towson, MD 21204

February 16, 1993

(410) 887-3353

Mr. and Mrs. Richard Cernak
1610 Holly Tree Road
Baltimore, MD 21220

RE: Case No. 93-245-A, Item No. 256
Petitioner: Richard Cernak, et ux
Petition for Administrative Variance

Dear Mr. and Mrs. Cernak:

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with the above referenced petition. The attached comments from each reviewing agency are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties, i.e., Zoning Commissioner, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case.

Enclosed are all comments submitted thus far from the members of ZAC that offer or request information on your petition. If additional comments are received from other members of ZAC, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on January 27, 1993, and a hearing was scheduled accordingly.

The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process with this office.

1) The Director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of a preliminary review by Zoning personnel.

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration and
Development Management
DATE: February 12, 1993

FROM: Pat Keller, Deputy Director
Office of Planning and Zoning

SUBJECT: Petitions from Zoning Advisory Committee

The Office of Planning and Zoning has no comments on the following petition(s):
Item Nos. 254, 256, 259, 263, 262, 267, 268, 261.

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3480.

Prepared by: Jeffrey M. Long
Division Chief: Pat Keller

PK/JL/lw

254.ZAC/ZAC1

BUREAU OF TRAFFIC ENGINEERING
DEPARTMENT OF PUBLIC WORKS
BALTIMORE COUNTY, MARYLAND

DATE: Feb. 18, 1993

TO: Mr. Arnold Jablon, Director
Office of Zoning Administration
and Development Management

FROM: Rahee J. Famill

SUBJECT: Z.A.C. Comments

Z.A.C. MEETING DATE: Feb. 8, 1993

There are no comments on item numbers 239, 240, 241, 254, 256, 257, 259, 260, 261, 262, 263, 264, 267 and 268

Rahee J. Famill
Rahee J. Famill
Traffic Engineer II

RJF/lvd

RECEIVED
FEB 18 1993

ZONING OFFICE

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT
INTER-OFFICE CORRESPONDENCE

TO: Mr. Arnold Jablon, Director
Zoning Administration and
Development Management
DATE: February 12, 1993

FROM: J. Lawrence Pilson, JLP/KAS
Development Coordinator, DEPRM

SUBJECT: Zoning Item #256
Cernak Property, 1610 Holly Tree Road
Zoning Advisory Committee Meeting of February 8, 1993

The Department of Environmental Protection and Resource Management offers the following comments on the above referenced zoning item.

The Department of Environmental Protection and Resource Management requests an extension for the review of the above referenced zoning item to determine whether the proposed development is in compliance with the Chesapeake Bay Critical Area Regulations. The applicant must submit a Critical Area Findings Plan for review and approval by this Department prior to preparation of a Critical Area Findings for the development. The applicant may contact the Environmental Impact Review Division of the Department at 887-2904 for details.

LP:MM:sp

CERMAK/TXTSBP

Baltimore County Government
Fire Department

700 East Joppa Road, Suite 901
Towson, MD 21286-5500

(410) 887-1500

FEBRUARY 16, 1993

Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204

RE: Property Owner: ROSE R. CERNAK AND RICHARD CERNAK

Location: #1610 HOLLY TREE ROAD

Item No.: #256(JCM) Zoning Agenda: FEBRUARY 8, 1993

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

7. The Fire Prevention Bureau has no comments at this time.

REVIEWER: Carl W. Hoffer Noted and Approved JP/REK
Planning Group Fire Prevention Bureau
Special Inspection Division

JP/REK

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Mr. Arnold E. Jablon, Director
Office of Zoning Administration
and Development Management
DATE: March 26, 1993

FROM: J. James Dieter
SUBJECT: Petition for Zoning Variance - Item 256
Cernak Property
Chesapeake Bay Critical Area Findings

SITE LOCATION

The subject property is located at 1610 Holly Tree Road. The site is within the Chesapeake Bay Critical Area and is classified as a Limited Development Area (LDA).

APPLICANT'S NAME Richard M. and Rose M. Cernak

APPLICANT PROPOSAL

The applicant has requested a variance from section 1A04.383 of the Baltimore County Zoning Regulations to permit side yard set back of 16 feet in lieu of the required 37.5 feet.

GOALS OF THE CHESAPEAKE BAY CRITICAL AREA PROGRAM

In accordance with the Chesapeake Bay Critical Area Program, all project approvals shall be based on a finding which assures that proposed projects are consistent with the following goals of the Critical Area Law:

1. "Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have runoff from surrounding lands;
2. Conserve fish, wildlife and plant habitat; and
3. Establish land use policies for development in the Chesapeake Bay Critical Area which accommodate growth and also address the fact that even if pollution is controlled, the number, movement, and activities of persons in that area can create adverse environmental impacts" <COMAR 14.15.10.01.0>.

Mr. Arnold E. Jablon
March 26, 1993
Page 2

REGULATIONS AND FINDINGS

1. Regulation: "Dredging, filling, or construction other than approved bulkheading shall not be permitted in any non-tidal and tidal wetlands unless the proposed development consists of utility, bridge, or street development in a non-tidal wetland and unless the Director of Environmental Protection and Resource Management finds this proposed development not detrimental to the County's Wetland Management Programs" <Baltimore County Code, Section 26-447>.

Finding: No tidal or non-tidal wetlands were found on this site, or in the vicinity of the site.

2. Regulation: "A minimum 100 foot buffer shall be established landward from the mean high water line of tidal waters, tidal wetlands, and tributary streams" <Baltimore County Code Section 26-449(a)>.

Finding: This property is adjacent to the tidal waters of Galloway Creek. The existing house is approximately 60 feet from mean high water allowing a buffer of approximately 60 feet to be established. No clearing, grading, or construction shall be permitted in the buffer.

3. Regulation: "The sum of all man-made impervious areas shall not exceed 15% of the lot" <COMAR 14.15.02.04 C.(7)>.

Finding: The amount of impervious area shall not exceed 3458 square feet or 15% of the lot. This includes all building structures, paved and crusher run driveways and parking pads, swimming pools, or any other impervious surfaces. The proposed open wooden deck is not considered impervious, there will be no change in impervious surface, therefore this regulation has been met.

4. Regulation: "Infiltration of stormwater shall be maximized throughout the site, rather than directing flow to single discharge points" <Baltimore County Code, Section 26-453(h)(2)>.

Finding: Stormwater runoff shall be directed from impervious surfaces associated with this plan, to pervious areas, to encourage maximum infiltration. Rooftop runoff shall be directed through downspouts and into a seepage pit or ditch drain to encourage maximum infiltration. These measures will ensure that the requirement of this regulation are met.

Mr. Arnold Jablon
March 26, 1993
Page 3

5. Regulation: "If no forest is established on proposed development sites, these sites shall be planted to provide a forest or developed woodland cover of at least 15%" <COMAR 14.15.02.04 C.(5)>.

Finding: This property currently contains and must maintain at least 15% tree cover. Trees are an important factor in improving water quality. The roots of trees greatly improve the infiltration rate of storm water and efficiently remove nitrogen from subsurface flows of groundwater. Trees also act as both a barrier and a sponge, blocking and absorbing eroding soils and the phosphorous associated with them.

CONCLUSION

The Zoning Variance shall be conditioned so the project proposal is in compliance with the Chesapeake Bay Critical Area Regulations and Findings listed above. This proposal will comply with Chesapeake Bay Critical Area Regulations if it is conditioned to meet the requirements in the Regulations listed in the above findings. If there are any questions, please contact Ms. Patricia M. Farr at 887-3980.

J. James Dieter
J. James Dieter, Director
Department of Environmental Protection
and Resource Management

JJD:KDK:rmp KK

Attachment

cc: Mr. and Mrs. Richard M. Cernak

CERNAK.ZNG/WQCBCA

Baltimore County Government
Office of Zoning Administration
and Development Management

111 West Chesapeake Avenue
Towson, MD 21204

FEBRUARY 3, 1993

(410) 887-3353

Rose and Richard Cernak
1610 Holly Tree Road
Baltimore, Maryland 21220

Re: CASE NUMBER: 93-245-A (Item 256)
4/9 of Holly Tree Road, 28' S of c/l of Burke Road
1610 Holly Tree Road
15th Election District - 5th Councilmanic
Legal Owner(s): Rose R. Cernak and Richard Cernak

Dear Petitioner(s):

Please be advised that your Petition for Administrative Zoning Variance has been assigned the above case number. Any contact made with this office should reference the case number. This letter also serves as a referee regarding the administrative process.

1) Your property will be posted on or before February 14, 1993. The closing date (March 1, 1993) is the deadline for a neighbor to file a formal request for a public hearing. After the closing date, the file will be reviewed by the Zoning or Deputy Zoning Commissioners. At that time, an order will issue. This Order may (a) grant the requested relief, (b) deny the requested relief, or (c) demand that the matter be set in for a public hearing. You will receive written notification as to whether or not your petition has been granted, denied, or will go to public hearing.

2) In cases requiring public hearing (whether due to a neighbor's formal request or by order of the Commissioners), the property will be reported and notice of the hearing will appear in a Baltimore County newspaper. Charges related to the reporting and newspaper advertising are payable by the petitioner(s).

3) Please be advised that you must return the sign and post to this office. They may be returned after the closing date. Failure to return the sign and post will result in a \$50.00 charge.

PLEASE UNDERSTAND THAT ON THE DATE AFTER THE POSTING PERIOD, THE PROCESS IS NOT COMPLETE. THE FILE MUST GO THROUGH FINAL REVIEW AND THE DECISION MAKING PROCESS. WHEN THE ORDER IS READY IT WILL BE FORWARDED TO YOU VIA FIRST CLASS MAIL. ORDERS ARE NOT AVAILABLE FOR DISTRIBUTION PRIOR TO BEING MAILED TO YOU.

Arnold Jablon
Arnold Jablon
Director

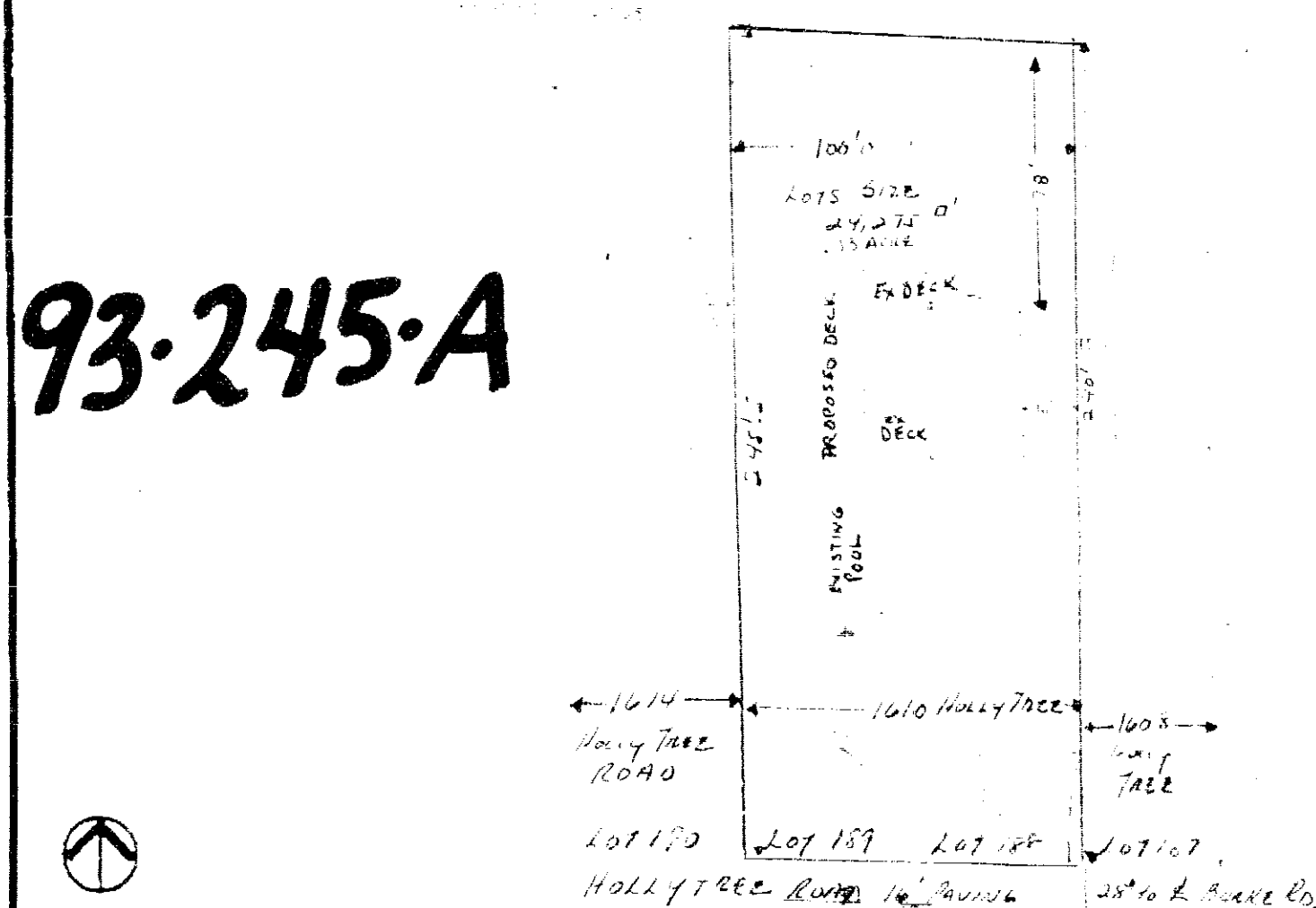


Plat to accompany Petition for Zoning Variance Special Hearing

PROPERTY ADDRESS: 1610 HOLLY TREE ROAD see pages 5 & 6 of the CHECKLIST for additional required information

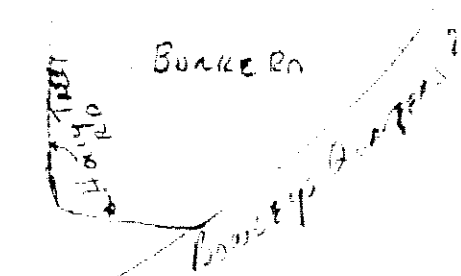
Subdivision name: BOWLEY'S QUARTERS
Plat Book: 7 Folio: 13 Lot: 183 Section: 1 PLAT 01

OWNER: RICHARD M. & ROSE M. CERVAK



North
date: 12-13-92
prepared by: _____

Scale of Drawing: 1" = 100'



Vicinity Map
Scale: 1" = 1000'

LOCATION INFORMATION

Councilmanic District: 5TH
Election District: 15TH
1" = 200' scale map: SHEET N.E. 1-K
Zoning: RC5
Lot size: 34,317 square feet

SEWER: ☒
WATER: ☒
Chesapeake Bay Critical Area: ☐

Prior Zoning Hearings:
CASE NO. 92-1123-A

Zoning Office USE ONLY!

reviewed by: _____ ITEM #: _____ CASE#: _____

1992 COMPREHENSIVE ZONING MAP
Adopted by the Baltimore County Council
Oct. 15, 1992

1 Nos. 183-92, 184-92, 185-92, 186-92, 187-92, 188-92, 189-92

William A. Howard IV
Chairman, County Council

SCALE
1" = 200'

DATE
OF
PHOTOGRAPHY
JANUARY
1986

LOCATION
BOWLEY'S
QUARTERS

SHEET
N.E.
1-K

SCALE
1" = 200'

DATE
OF
PHOTOGRAPHY
JANUARY

LOCATION
BOWLEY'S
QUARTERS

SHEET